

Massachusetts Laws and Liberties

THE LAWS AND LIBERTIES OF MASSACHUSETTS

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With an Introduction by

MAX FARRAND

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THE
BOOK OF THE GENERAL
LAUUES AND LIBERTYES

CONCERNING THE INHABITANTS OF THE MASSACHUSETTS
COLLECTED OUT OF THE RECORDS OF THE GENERAL COURT
FOR THE SEVERAL YEARS WHEREIN THEY WERE MADE
AND ESTABLISHED,

And now revised by the same Court and disposed into an Alphabetical order
and published by the same Authority in the General Court
held at Boston the fourteenth of the
first month Anno
1647.

Whoever therefore resisteth the power, resisteth the ordinance of God,
and they that resist receive to themselves damnation. *Romanes 13.2.*



CAMBRIDGE.
Printed according to order of the GENERAL COURT.
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And are to be sold at the Shop of Higgin's in Boston.

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TO OUR BELOVED BRETHREN AND NEIGHBOURS

the Inhabitants of the Massachusets, the Governour, Assistants
and Deputies assembled in the Generall Court of that

Jurisdiction with grace and peace in our
Lord Iesus Christ.

SO soon as God had set up Politicall Government among his people Israel hee gave them a body of lawes for judgement both in civil and criminal causes. These were breif and fundamental principles, yet withall so full and comprehensive as out of them clear deductions were to be drawne to all particular cases in future times. For a Common-wealth without lawes is like a Ship without rigging and steeradge. Nor is it sufficient to have principles or fundamentalls, but these are to be drawn out into so many of their deductions as the time and condition of that people may have use of. And it is very unsafe & injurious to the body of the people to put them to learn their duty and libertie from generall rules, nor is it enough to have lawes except they be also just. Therefore among other priviledges which the Lord bestowed upon his peculiar people, these he calls them specially to consider of, that God was neerer to them and their lawes were more righteous then other nations. God was sayd to be amongst them or neer to them because of his Ordinances established by himselfe, and their lawes righteous because himselfe was their Law-giver: yet in the comparison are implied two things, first that other nations had something of Gods presence amongst them. Secondly that there was also somewhat of equitie in their lawes, for it pleased the Father (upon the Covenant of Redemption with his Son) to restore so much of his Image to lost man as whereby all nations are disposed to worship God, and to advance righteousness: which appears in that of the Apostle Rom. 1. 21. They knew God &c: and in the 2. 14. They did by nature the things contained in the law of God. But the nations corrupting his Ordinances (both of Religion, and Justice) God withdrew his presence from them proportionably whereby they were given up to abominable lusts Rom. 2. 21. Whereas if they had walked according to that light & law of nature they might have been preserved from such moral evils and might have enjoyed a common blessing in all their natural and civil Ordinances: now, if it might have been so with the nations who were so much strangers to the Covenant of Grace, what advantage have they who have interest in this Covenant, and may enjoy the special presence of God in the puritie and native simplicitie of all his Ordinances by which he is so neer to his owne people. This hath been no small priviledge, and advantage to us in New-England that our Churches, and civil State have been planted, and growne up (like two twinnes) together like that of Israel in the wilderness by which wee were put in minde (and had opportunitie put into our hands) not only to gather our Churches, and set up the Ordinances of Christ Iesus in them according to the Apostolick patterne by such light as the Lord graciously afforded us: but also withall to frame our civil Politie, and lawes according to the rules of his most holy word whereby each do help and strengthen other (the Churches the civil Authoritie, and the civil Authoritie the Churches) and so both prosper the better without such emulation, and contention for priviledges or priority as have proved the misery (if not ruine) of both in some other places.

For this end about nine years since wee used the help of some of the Elders of our Churches to compose a modell of the Iudiciall lawes of Moses with such other cases as might be referred to them, with intent to make use of them in composing our lawes, but not to have them published as the lawes of this Jurisdiction: nor were they voted in Court. For that booke intituled The Liberties &c: published about seven years since (which contains also many lawes and orders both for civil & criminal causes, and is commonly (though without ground) reported to be our Fundamentalls that wee owne as established by Authoritie of this Court, and that after three years experience & generall approbation: and accordingly we have inserted them into this volume under the severall heads to which they belong yet not as fundamentalls, for divers of them have since been repealed, or altered, and more may justly be (at least) amended heerafter as further experience shall discover defects or inconveniences for Nihil simul natum et perfectum.

The same may be say of this present Volume, we have not published it as a perfect body of Laws, it is a Treasury on the Government established for future times, nor could it be expected that we should present such a perfect body. For if it be no disparagement to the wisdom of that High Court of Parliament in England that in four hundred years they could not so compile the laws of the same kind existing in Courts of justice: but that they had still new laws to be decreed, being unsworned of every Parliament: there can be no just cause to blame a poor Compiler, who has collected the Laws and Statutes that in eighteen years hath produced more new Brethren and Neighbours. And I have said Government that this book holds forth: nor have you any life alteration by other State, whether you look back upon our Native Country, or upon the Empire of the East, or Common wealth in Europe to comply with, and to be employed in this service, for which health been spent in compiling Laws, and those Laws, and altering them so often, nor of the charge which the Country hath been put for additional Credit in Orbis doctus.

Full age and
Age of discre-
tion.

fourth day of the first month and the last fourth day of the eighth month from year to year [1633 1634 1635 1636]

Ferries.

For setting all common ferries in a right course both for the Passengers and Owners, it is ordered by this Court and authority thereof;

That whosoever hath a Ferry granted upon any passage shall have the sole libertie for transporting passengers from the place where such Ferry is granted, to any other ferrie-place where ferrie-boats use to land, and any ferrie-boat that shall land passengers at any other Ferrie may not take passengers from thence if the ferrie-boat of the place be ready. Provided this order shall not prejudice the libertie of any that do use to passe in their own or neighbours canoes or boats to their ordinary labour or busines. Also Ferriemen are allowed to take double pay at such common Ferries after day light is done, and those that make not present pay, being required, shall give their names in writing or a pawn to the Ferrieman, or else he may complain of such before a Magistrate to get satisfaction. And it is ordered that all the Magistrates and such as are, or from time to time shall be chosen to serve as Deputies of the General Court, with their necessary attendants viz: a man and a horse at all times, during the time of their being Magistrates or Deputies [and not their whole families] shall be passage-free over all Ferries. Provided where Ferries are appropriated to any, or rented out & be out of the Countie hands their passage shall be paid by the Countie. And the Ferriemen of *Charlbury* are allowed for the passage of the Magistrates, Deputies, Grand and petty Jurymen, prisoners, Keepers and Marshalls, by agreement with them six pounds *per annum* to be paid by the Treasurer.

And whereas men doe passe over the common Ferries in great danger oftentimes, and the Ferriemen excuse themselves by the importunities of passengers and want of law to inviable them to keep due order touching passengers, its therefore hereby further ordered:

That no person shall preste or enter into any ferrie-boat contrary to the will of the Ferrieman or of the most of the passengers first entered upon pain of ten shillings for every such attempt: and that every Ferrieman that shall permit and allow any person to come into his boat against the will of any of the Magistrates or Deputies or any of the Elders shipped in such boat or the greater part of the passengers in the said boat, shall forfeit for every person so admitted or received against such their will so declared the sum of twenty shillings. And it shall be in the power of any of the Ferriemen to keep out or put out of his boat any person that shall preste, enter into, or stay in any such ferrie-boat contrary to this Order. And it is further ordered that all persons that be received into such ferrie-boats according to their coming, first or last, only all Publick persons or such as goe upon publick or urgent occasions, as Philitians, Chirurgions and Midwives and such other as are called to womens labours, rates shall be transported with the first. [1641 1644 1645 1647] See *Chilidge*.

Fines.

Whereas divers persons indebted to the Countie for publick Rates, & others for Fines who for avoiding payment sometime sell their houses and lands, and send away their goods to other Plantations, it is therefore ordered by the authority of this Court,

That the Treasurer shall grant *Warrant* to the Marshall to attach the bodies of such persons, & keep them till they make satisfaction; and all such persons as are to pay any fines if they have not lands or goods to be distrained shall have their bodies attached to make satisfaction. Provided that any Court of Assisants or County Court may discharge any such person from imprisonment if they shall finde them indeed unable to make satisfaction. [1638]

Fyre.

It is ordered by this Court and the Authoritie therof, that whosoever shall kindle any fyres in woods or grounds lying in common or inclosed, so as the same shall run into such common grounds or inclosures; before the tenth of the first month after the last of the second month, or on the last day of the week, or on the Lords day shall pay all damages and

and half so much for a Fine, or if not able to pay then to be corporally punished by *Warrant* from one Magistrate or the next County Court as the offence shall deserve, not exceeding twenty stripes for one offence. Provided that any man may kindle fyre in his own ground at any time, so as no damage come thereby either to the Countie or any particular person. And whosoever shall wittingly and willingly burn or destroy any frame, timber hewed, fawn or ryven, heaps of wood, charcoal, corn, hay, straw, hemp or flax he shall pay double damages.

Fyfe, Fyber-men.

UPON the petition of the Inhabitants of Marble-head this Court doth hereby declare that whosoever it hath been an allowed custom for forreign fyfemen to make use of such Harbours and Grounds in this Countie as have not been inhabited by Englysh men, and to take timber and wood at their pleasure for all their occasions, yet in these parts which are now possessed and the lands disposed in propriety unto severall towne and persons and that by his Majesties graunt under the Great Seal of England,

It is not now lawfull for any person either Fyferman or other, either Forreiner or of this Countie to enter upon the lands so appropriated to any towne or Person, or to take any wood or timber in any such place without the licence of such towne or Proprietor: and if any person shall trespass herein the Town or Proprietor so injured may take their remedie by Action at law, or may preserve their goods or other interest by opposing lawfull force against such unjust violence. Provided that it shall be lawfull for such Fyfermen as shall be employed by any Inhabitants in this Jurisdiction in the severall seasons of the year to make use of any of our Harbours and such lands as are neer adjoining, for the drying of their fish or other needfull occasions, as also to have such timber or fire-wood as they shall have necessary use of for their filling felcons where it may be spared, so as they make due satisfaction for the same to such Town or Proprietor. [1646]

Forgerie.

It is ordered by this Court and Authoritie therof, That if any person shall forge any Deed or conveyance, Testament, Bond, Bill, Release, Acquittance, Letter of Attourney or any writing to pervert equitie and justice, he shall stand in the *Pillory* three severall Lecture dayes and render double damages to the partie wronged and also be disabiled to give any evidence or verdict to any Court or Magistrate. [1646]

Fornication.

It is ordered by this Court and Authoritie therof, That if any man shall commit Fornication with any fingle woman, they shall be punished either by enjoying to Marriage, or Fine, or corporall punishment, or all or any of these as the Judges in the courts of Assisants shall appoint most agreeable to the word of God. And this Order to continue till the Court take further order. [1642]

Freemen, Non-Freemen.

WHEREAS there are within this Jurisdiction many members of Churches who to exempt themselves from all publick service in the Common-Wealth will not come in, to be made Freeman, it is therefore ordered by this Court and the Authoritie therof,

That all such members of Churches in the severall towne within this Jurisdiction shall not be exempted from such publick service as they are from time to time chosen to the Freeman of the severall towne; as Constables, Jurors, Select-men and Surveyors of high-ways. And if any such person shall refuse to serve in, or take upon him any such Office being legally chosen therunto, he shall pay for every such refusal such Fine as the towne shall impose, not exceeding twenty shillings as Freeman are lyable to in such cases. [1647]

Fugitives, Strangers.

It is ordered by this Court and Authoritie therof, That if any people of other nations professing the true Chistian Religion shall flee to us from the tyrannie or oppression of their persecutors, or from Famine, Wars, or the like necessarie and compulsarie

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this end it is ordered that the Constable of everie place shall use special care and diligence to take knowledge of offenders in this kinde, especially of common costlers, unprofitable fowlers and tobacco takers, and present the same unto the two next Assisants, who shall have power to hear and determin the cause, or transfer it to the next Court. [1673]

Jesuits.

THIS Court taking into consideration the great wars, combustions and dissensions which are this day in Europe: and that the same are offered to be raised and fomented chiefly by the secret underminings, and solicitations of those of the Jesuitical Order, brought up and devoted to the religion and court of Rome: which hath occasioned divers States to expell them from their territories; for prevention whereof among our selves, It is ordered and enacted by Authority of this Court.

That no Jesuit, or spiritual or ecclesiastical person [as they are termed] ordained by the authority of the Pope, or Sea of Rome shall henceforth at any time repair to, or come within this Jurisdiction: And if any person shall give just cause of suspicion that he is one of such Societies or Order he shall be brought before some of the Magistrates, and if he cannot free himself of such suspicion he shall be committed to prison, or bound over to the next Court of Assizes, to be tried and proceeded with by Banishment or otherwise as the Court shall see cause: and if any person be banished shall be taken the second time within this Jurisdiction upon lawful trial and conviction he shall be put to death. Provided this Law shall not extend to any such Jesuit, spiritual or ecclesiastical person as shall be cast upon our shores, by ship-wrack or other accident, so as he continue no longer than till he may have opportunity of passage for his departure; nor to any such as shall come in company with any Messenger either upon publick occasions, or any Merchant or Master of any ship, belonging to any place not in amity with the State of England, or our selves, so as they depart again with the same Messenger, Master or Merchant, and behave themselves in-offensively during their abode here. [1697]

Warrinco

Итого

IT is ordered by Authority of this Court that *Warronco* upon *Concedor* lying within this Jurisdiction shall be, and be reputed as a part of the town of *Springfield* and lyable to all charges there, as other parts of the same town, until upon erecting some other Plantation near unto it it shall be thought fit by this Court to annex it to such new Plantation.

It is also ordered that the Trading-house at *Warronago* and all other Trading-houses created or to be created, maintained or used within this Jurisdiction, for trading with the Indians only or chiefly shall be contributive to all publick and common charges, both in Town and Countie, and every such person as shall inhabit or trade in any such Trading-house or near the same shall pay unto the publick Treasurie (by the hands of such as shall be assigned to receive the same) for every skin of Beaver, Otter, Bear or such Trader twice. And if such person so assigned shall have cause to suspect that any one of the next Magistrates thereof, who shall find for such Trader to require him to deliver account upon his oath, which if he shall refuse to do, he may commit him to prison or take *Bond* with Sureties for his appearance, he may commit him to prison for his contumacy.

And it is further ordered that if such skins be received, by way of trading, in or near any such Trading-house for which the said *Impot* of two pence a skin shall not be satisfied within one week after demand thereof shall be forfeited to the publick Treasury, or the value thereof; to be levied by *Warrant* from any one Magistrate upon any skins or other goods in such Trading-house. [1647]

Trading-
houses.

Two pence a
share.

Freiheit

² For the better support of the Government of this Commonwealth and the maintenance of Fortifications; for the protecting and safe-guarding of our Coasts and Harbours, for our selves and others that come to trade with us, it is ordered by this Court and the Authority thereof,

That Every person, Merchant, Seaman, or other that shall bring wines into any our Harbours, in any ships or vessels whatsoever (except they come directly from England as their first Port) before they land any of the said wines, more or lesse, shall first make entrie of as many Barrells, Pipes, or other vessels, as they or any of them shall put on shore, by a note under their hands, delivered unto the Officer at his house (who is to receive the Customs) upon pain of forfeiture and confiscation of all such wines as are landed before such entrie made, wherefoever found, the one halfe to the Countre, the other halfe to the Officer: and the Merchants or Owners of such wines of any kinde as soon as he lands them, shall deliver and pay unto the said Officer, what is due for Customs of them according to this Order, in wine according to the proportion of the goodnes of the parcel that is brought in, as the Officer and Owner can agree, to the contentment and satisfaction of the said Officer, or else the Owner and Officer to nominate a third man, who shall put a final price between them, in point of valuation of the wines for Customs: but if they cannot agree, upon notice from the Officer unto the Treasurer for the time being, he shall determine the price thereof, and being so ordered the Officer and Merchant shall accept thereof.

And it is further ordered that he that is the cheif Officer to receive fuch Customs shall have under him a Deputie or Deputies who shall be as Searchers or waytors in severall places to take up such wines, by the cheif Officers appointment, and to take notice of what is landed in any place that the Country be not defrauded, who shall have such recompence as the cheif Officer in his discretion shall agree with them for, either by the Butt or Pipe or by the year. All wines to pay customs according to those Western Ifing tiz: for every Butt or pipe of Fyall wines or any other such fix shillings eight pence. For lands five shillings. For everie Pipe of Madarie wines fix shillings eight pence. For Mafceverie Butt or Pipe of Sherrie sack, Malvoe or Canarie wines ten shillings. For Bathards, Tents & Idell, Malmesey and other wines from the Sreighten ten shillings. For Bathards, Tents & Idell, Malmesey and other wines from the Sreighten ten shillings. Aliigants ten shillings: and proportionably for greater or lesser vessels of each kind. For everie Hoghead of French wines two shillings six pence, and proportionably for greater or lesser vessels.

And for better recovering of any such Customs of wines or forfeitures, for not entering according to this Order and for refusing of payment of such Customs to the satisfaction of the Officers, it is further ordered, That if any Person shall refuse to pay the same, or shall pay the same in any other manner than is therein expressed, he shall be liable to the same Penalties as are therein expressed.

of the Officer, it is further ordered, That the said Officer hath hereby power and is required to go into all Houses or Cellars where he knoweth or suspecteth any wine to be, and from thence to time shall seize upon such wines as are not entered according to this Order: And also seize upon, and take possession of so much wines as to make payment of what Custom is due according to the entries made, and is refused or neglected to be paid in due manner according to and Order. And all Constables and other Officers are hereby required to assist and aid the Officer in the discharge of his duty, and helping to break open such Houses or Cellars, if the Owners of such wines shall refuse to open their doors, or deliver their keys in a peaceable way. And any Smith, Carter, Owner of boat, Porter or other that shall be required by the Officer to put to their hand to help and assist in taking, loading & transporting such wines for the use of the Country, and shall refuse or neglect such service for porting such wines for the use of the Country, and shall refuse for everie such default, to be due hire shall forfeit to the common Tresaurie ten shillings for everie such default, to be recovered by the Constable by warrant from any one Magistrate. And all debts due to the Country for custom of wines, where wines are not in other cases, and this Orderred by way of Adition, according to a course of law as is not to be found, they are to be in force to recover Customs from all those that have landed wine in this Jurisdiction already and not payd Custom.

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Impresses

Impress.
 It is ordered, and by this Court declared, that no man shall be compelled to any publick work, or service, unless the Presse be grounded upon some act of the General Court; and have reasonable allowance therefore: nor shall any man be compelled in person to any office, work, wars, or other publick service that is necessarily and sufficiently exempted, by any natural or personal impediment: as by want of years, greatness of age, defect of mind, failing of senses, or impotency of limbs. Nor shall any man be compelled to go out of this Jurisdiction upon any offensive wars, which this Common-wealth, or any of our friends or confederates shall voluntarily undertake; but only up such vindictive and defensive wars, in our own behalf, or the behalf of our friends and confederates; as shall be entered by the council, and consent of a General Court, or by Authority derived from the same. Nor shall any man's cattle or goods of what kinde forever be pressed, or taken for any publick use or service; unless it be by *Warrant* grounded upon some act of the General Court: nor without such reasonable prizes and hire as the ordinary rates of the Countie doe afford. And if his cattle or goods shall perish, or suffer damage in such service, the Owner shall be sufficiently recompensed. [1641]

Imprisonment.
 It is ordered, and by this Court declared, that no mans person shall be restrained or imprisoned by any authority whatsoever before the Law hath sentenced him thereto: if he can put in sufficient security, *Bayle or Mainprize* for his appearance, and good behaviour in the mean time: unless it be in crimes Capital, and contempt in open Court, and in such cases where some express Act of Court doth allow it. [1641]

Indians.
 It is ordered by Authority of this Court; that no person whatsoever shall henceforth buy land of any Indian, without licence first had & obtained of the General Court: and if any shall offend herein, such land so bought shall be forfeited to the Countie.

Nor shall any man within this Jurisdiction directly or indirectly amend, repair, or cause to be amended or repaired any gun, small or great, belonging to any Indian, nor shall endeavour the same. Nor shall sell or give to any Indian, directly or indirectly any such gun, or any gun-powder, shot or lead, or shot-mould, or any military weapons or armours, upon pain of ten pounds fine, at the least for every such offence: and that the court of Affiliants shall have power to increase the Fine, or to impose corporal punishment (where a Fine cannot be had) at their discretion.

It is also ordered by the Authority aforesaid that every town shall have power to restrain all Indians from profaning the Lords day. [1633 1637 1641]

2 *Whereas it appeareth in this Court that notwithstanding the former Lawes, made against selling of guns, powder and Ammunition to the Indians, they are yet supplied by indirect means, it is therefore ordered by this Court and Authority thereof;*

That if any person after publication hereof, shall sell, give or barter any gun or gun, powder, bullets, shot or lead to any Indian whatsoever, or unto any person inhabiting out of this Jurisdiction without licence of this Court, or the court of Affiliated ten pounds; and for every pound of powder five pounds; and for every pound of bullets, shot or lead fourty shillings: and so proportionally for any greater or lesser quantitie. [1642]

3 It is ordered by this Court and Authority thereof, that in all places, the English and such others as co-inhabit within our Jurisdiction shall keep their cattle from destroying the Indians corn. In any ground where they have right to plant: and if any of their corn be destroyed for want of fencing, or hearing: the town shall make satisfaction, and shall have power among themselves to lay the charge where the occasion of the damage did arise. Provided that the Indians shall make proof that the cattle of such a town, farm, or person did the damage. And for encouragement of

of the Indians toward the fencing in of their corn fields, such towns, farms or persons, whose cattle may annoy them that way, shall direct, affix and help them in felling of trees, riving, and sharpening of rays, & holding of posts: allowing one Englishman, to three or more Indians. And shall also draw the fencing into place for them, and allow one man a day or two toward the felling up the same, and either lend or sell them tools to finish it. Provided that such Indians, to whom the Countie, or any town hath given, or shall give ground to plant upon, or that shall purchase ground of the English shall fence such their corn fields or ground at their own charge as the English doe or should doe; and if any Indians refuse to fence their corn ground (being tendered help as aforesaid) in the presence and hearing of any Magistrate or selected Townsmen being met together they shall keep off all cattle or lose one half of their damages.

And it is also ordered that if any harm be done at any time by the Indians unto the English in their cattle; the Governour or Depute Governour with two of the Affiliants or any three Magistrates or any County Court may order satisfaction according to law and justice. [1640 1648]

4 *Considering that one end in planting these parts was to propagate the true Religion unto the Indians: and that divers of them are become subjects to the English and have engaged themselves to be willing and ready to understand the Lawe of God, it is therefore ordered and decreed,*

That such necessary and wholesome Laws, which are in force, and may be made from time to time, to reduce them to civility of life shall be once in the year (if the times be safe) made known to them, by such fit persons as the General Court shall nominate, having the help of some able Interpreter with them.

Considering also that interpretation of tongues is appointed of God for propagating the Truth: and may therefore have a blessed success in the hearts of others in due season, it is therefore further ordered and decreed,

That two Ministers shall be chosen by the Elders of the Churches everie year at the Court of Election, and so be sent with the consent of their Churches (with whom the Court of Election, and so be sent with the consent of their Churches) to make known forever will freely offer themselves to accompany them in that service: to make known the heavenly counsell of God among the Indians in most familiar manner, by the help of some able Interpreter: as may be most available to bring them unto the knowledge of the truth, and their conversation to the Rules of Jesus Christ. And for that ledge of the truth, and their conversation to the Rules of Jesus Christ. And for that end that something be allowed them by the General Court, to give away freely unto those Indians whom they shall perceive most willing & ready to be instructed by them.

And it is further ordered and decreed by this Court; that no Indian shall at any time *powow*, or performe outward worship to their false gods: or to the devil in any part of our Jurisdiction; whether they be such as shall dwell heer, or shall come hither: and if any shall transgreffe this Law, the *Powow*er shall pay five pounds; the Procureur five pounds; and every other countenancing by his presence or otherwise being of age of discretion twenty shillings. [1646]

Indentments.

If any person shall be indicted of any capital crime (who is not then in *duress*) & shall refuse to render his person to some Magistrate within one month after three Proclamations publickly made in the town where he usually abides, there being a Proclamation betwixt Proclamation and Proclamation, his lands and goods shall be seized month betwixt Proclamation and Proclamation, his lands and goods shall be seized to the use of the common Treasurie, till he make his lawfull appearance. And such withdrawing of himselfe shall stand in stead of one witness to prove his crime, unless he can make it appear to the Court that he was necessarily hindered. [1646]

In-keepers, Tippling, Drunkenes.

FORASMUCH as there is a necessary use of houses of common entertainment in every Common-wealth, and of such as retail *beere, beer and vittuals*: yet because there are so many abuses of that lawfull libertie, both by persons entertaining and persons entertained, there is also need of strict Lawes and Rules to regulate such an employment: It is therefore ordered by this Court and Authority thereof;

E

That

30	In-keepers, Tippling, Drunkenness.
No common Victualler, Cook, Fryer, &c. without licence.	That no person or persons shall at any time under any pretence or colour whatsoever undertake to be a common Victualler, Keeper of a Cooks shop, or house for common entertainment, Taverner, or publick feller of wine, ale, beer or strong-water (by re-tale), nor shall any sell wine privately in his house or out of doors by a leffe quantitie, or under a quarter cask: without approbation of the selected Townsmen and Licence of the Shire Court where they dwell: upon pain of forfeiture of five pounds for everie such offence, or imprisonment at pleasure of the Court, where satisfaction cannot be had.
On pen: 1s.	And everie person so licensed for common entertainment shall have some inoffensive Signe obvious for strangers direction, and such have no such Signe after three months so licensed from time to time shall lose their licence: and others allowed in their stead. And any licensed person that selleth beer shall not sell any above two pence the ale-quart: upon penaltie of three shillings four pence for everie such offence. And it is permitted to any that will to sell beer out of doors at a pennie the ale-quart and under.
Signe	Neither shall any such licensed person aforesaid suffer any to be drunken, or drink excessively viz: above half a pinte of wine for one person at one time; or to continue tippling above the space of half an hour, or at unreasonable times, or after nine of the clock at night in, or about any of their houses on penaltie of five shillings for everie such offence.
No beer above two pence the quart. Any may sell out of doors at 1d a quart.	And everie person found drunken viz: so that he be thereby bereaved or disabled in the use of his understanding, appearing in his speech or gesture in any the said houses or elsewhere shall forfeit ten shillings. And for excessive drinking three shillings four pence. And for continuing above half an hour tippling two shillings six pence. And for tippling at unreasonable times, or after nine a clock at night five shillings: for everie offence in these particulars being lawfully convicted thereof. And for want of payment such shall be imprisoned until they pay: or be set in the Stocks one hour or more (in some open place) as the weather will permit not exceeding three hours at one time.
In-holders houses	Provided notwithstanding such licensed persons may entertain sea-faring men, or land travellers in the night-season, when they come first on shore, or from their journey for their necessarie refreshment, or when they prepare for their voyage or journey the next day early; so there be no disorder among them; and also Strangers, Lodgers or other persons in an orderly way may continue in such houses of common entertainment during meal times, or upon lawfull business what time their occasions shall require.
Penalty of offence to be ext: 1s. a d. 10p. unless formerly.	Nor shall any Merchant, Cooper, Owner or Keeper of wines or other persons that have the government of them suffer any person to drink to excess, or drunkenness, in any their wine-cellars, Ships, or other vessels or places where wines do lye; on pain to forfeit for each person so doing ten shillings.
Stocks.	And if any person offend in drunkenness, excessive or long drinking the second time they shall pay double Fines. And if they fall into the same offence the third time they shall pay treble Fines. And if the parties be not able to pay the Fines then he that is found drunk shall be punished by whipping to the number of ten stripes: and he that offends in excessive or long drinking shall be put into the stocks for three hours when the weather may not be hazzard his life or limbs. And if they offend the fourth time they shall be imprisoned until they put in two sufficient Sureties for their good behaviour.
Provids.	And it is farther ordered that if any person that keepeth, or hereafter shall keep a common house of entertainment, shall be lawfully convicted the third time for any offence against this Law: he shall (for the space of three years next ensuing the said conviction) be disabled to keep any such house of entertainment, or sell wine, beer or the like; unless the Court aforesaid shall see cause to continue them.
The laws further extant	It is farther ordered that everie In-keeper, or Victualler shall provide for the entertainment
Bested offence double penalty. Third offence Whipping.	
Rocks.	
Fourth offence	
Victualler directly a third time disabled	

31	In-keepers, Tippling, Drunkenness. Juries, Jurors.
Provides for houses.	of strangers horses viz: one or more inclosures for Summer and hay and provender for Winter with convenient stable room and attendance under penaltie of two shillings six pence for everie dayes default, and double damage to the partie thereby wronged (except it be by inevitable accident.
Vintner.	And it is farther ordered by the Authoritie aforesaid, that no Taverner or feller of wine by retale, licensed as aforesaid shall take above nine pounds profit by the Butt or Pipe of wine, (and proportionally for all other vessels) toward his waft in drawing and stilling: out of which allowance everie such Taverner or Vintner shall pay fifty shillings by the Butt or Pipe and proportionally for all other vessels to the Countree. For which he shall account with the Auditor general or his Deputie everie six months and discharge the same. All which they may do by selling six pence a quart in retale (which they shall no time exceed) more then it cost by the Butt, beside the benefit of their art and mysterie which they know how to make use of. And everie Taverner or Vintner shall give a true account and notice unto the Auditor or his Deputie of everie vessel of wine he buies from time to time within three dayes; upon pain of forfeiting the fame or the value thereof.
pay 10 sh. 1 butt to the Countree.	And all such as retale strong waters shall pay in like manner two pence upon everie quart to the use of the Countree, who also shall give notice to the Auditor or his Deputie of everie cask and bottle or other quantitie they buy within three dayes upon pain of forfeiture as before.
Ever account.	Also it is ordered that in all places where week day Lectures are kept, all Taverners, Victuallers and Tablers that are within a mile of the Meeting-house, shall from time to time clear their houses of all persons able to go to the Meeting, during the time of the exercise (except upon extraordinary cause, for the necessarie refreshing of strangers unexpectedly repairing to them) upon pain of five shillings for everie such offence over and besides the penalties incurred by this Law for any other disorder.
Two pence a quart for each of strong water.	It is also ordered that all offences against this Law may be heard and determined by any one Magistrate, who shall hearby have power by Warrant to send for parties, and witnesses, and to examine the said witnesses upon oath and the parties without oath, concerning any of these offences: and upon due conviction either by view of the said Magistrate, or affirmation of the Constable, and one sufficient witness with circumstantiall evidence, or two witnesses, or confession of the partie to leveie the said severall fines, by Warrant to the Constable for that end, who shall be accountable to the Auditor for the same.
One Magistrate may hear the.	And if any person shall voluntarily confesse his offence against this Law in any the particulars thereof, his oath shall be taken in evidence and stand good against any other offending at the same time.
Fines treble.	Lastly, it is ordered by the Authoritie aforesaid that all Constables may, and shall from time to time duly make search throughout the limits of their towns upon Lords dayes, and Lecture dayes, in times of Exercise; and also at all other times, so oft as they shall see cause for all offences and offenders against this Law in any the particulars thereof. And if upon due information, or complaint of any of their Inhabitants, or other credible persons whether Taverner, Victualler, Tabler or other; they shall re-fer or neglect to make search as aforesaid, or shall not to their power perform all such things belonging to their place and Office of Constableship: then upon complaint and due proof before any one Magistrate within three months after such refusal or neglect; they shall be fined for everie such offence before whom they are convicted, or Warrant from the Treasurer upon notice from such Magistrate. [1645 1646 1647] See Gaming, Licences.
Constables neglect.	Juries, Jurors.
	It is ordered by this Court and Authoritie thereof, that the Constable of everie town upon Process from the Recorder of each Court, shall give timely notice to the Freemen of their town, to chioo for as many able discreet men as the Process shall direct which
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which men so chosen he shall warn to attend the Court where they are appointed, and shall make return of the *Proces* unto the Recorder aforesaid: which men so chosen shall be *impanelled* and sworn truly to try between partie and partie, who shall find the matter of fact with the damages and costs according to their evidence, and And if there be any matter of apparent equity as upon the forfeiture of an Obligation, breach of covenant without damage or the like, the Bench shall determine such matter of equity.

2 Nor shall any tryall pass upon any life or banishment but by a special Jury summoned for that purpose, or by the General Court.

3 It is also ordered by the Authoritie aforesaid that there shall be Grand-Juries summoned everie year unto the several Courts, in each Jurisdiction; to inform the Court persons whatsoever that they shall know or hear to be committed by any person or Common-wealth within this Jurisdiction. And to doe any other service of the Court; and in all cases where evidence is so obscure or defective that the Jury cannot clearly libertie to give a positive verdict, whether it be Grand, or Petty Jury, it shall have the judgement of the Cause shall be left unto the Bench. And all Jurors shall have their verdict so much as they can.

4 And if the Bench and Jurors shall so differ at any time about their verdict that either of them cannot proceed with peace of conscience, the Cause shall be referred to the General Court who shall take the question from both and determine it.

5 And it is further ordered that whenever any Jury of tryalls, or Jurors are not clear in their judgement or consciences, concerning any Cause wherein they are to give their verdict, they shall have libertie in open Court to advise with any man they shall think fit to resolve or direct them, before they give in their verdict. And no Freeman shall be compelled to serve upon Juries above one ordinary Court in a year; except Grand-jury men, who shall hold two Courts together at the least, and such others as shall be summoned to serve in case of life and death or banishment. [1642]

[1641 1642] See *Seegræ*.

IT is ordered, and by this Court declared; that every person within this Jurisdiction, whether Inhabitant or other shall enjoy the same justice and law that is general for this Jurisdiction which we constitute and execute one towards another, in all cases proper to our cognizance without partialitie or delay. [1641]

IT is ordered, and by this Court declared; that all our Lands and Heritages shall be free from all *Fines* and *Licences* upon alienations, and from all *Harlots*, *Wardships*, *Livories*, *Primefruits*, year, day and waite, *Echeats* and forfeitures, upon the death of Parents or Ancestors, be they natural, unnatural, casual or judicial and that for ever. [1641] See *Abillie*, *Echeats*, *Strangers*.

THIS Court taking into serious consideration the several deceits and abuses which in other places have been and are commonly practised by the Tanners, Curriers and berr of this Common-wealth, by leather not sufficiently tanned and wrought, which is offered by their negligence and unskillfulness of those several craft-men which before, in offer it is in the hands of the Tanner may be much bettered or improved, for prevention whereof, it is ordered by this Court and the Authoritie thereof;

That no person using or occupying the feat or myserie of a Butcher, Currier, or shoe-maker

Shoe-maker by himselfe or any other, shall use or exercise the feat or myserie of a Tanner on pain of forfeiture of six shillings eight pence for everie hyde or skin by him or them so tanned whilst he or they shall use or occupy any of the myseries aforesaid.

Nor shall any Tanner during his using the said trade of tanning, use or occupy the feat or myserie of either Butcher, Currier or Shoe-maker by himselfe or any other upon pain of the like forfeiture.

Nor shall any Butcher by himselfe or any other person gash or cut any hyde of ox, bull, steer, or cow in fleaving thereof, or otherwise wherby the same shall be impaired or hurt, on pain of forfeiture for everie such gash or cut in any hyde of skin twelve pence.

Nor shall any person or persons henceforth largain, buy, make any contract, or bespeak any rough hyde of ox, bull, steer or cow in the hair, but only such persons as have and doe use and exercise the art of tanning.

Nor shall any person or persons using, or which shall use the myserie or facultie of tanning at any time or times hereafter, offer or put to sale any kinde of leather, which shall be insufficiently or not thoroughly tanned, or which shall not then have been after the tanning thereof well and thoroughly dried, upon pain of forfeiting for each of his or their said leather as by any Searcher or Sealer of leather lawfully appointed shall be found insufficiently tanned, or not thoroughly dried as aforesaid.

Nor shall any person or persons using or occupying the myserie of tanning, set any their Fats in tan-hills or other places, where the wooses or leather put to tan in the same shall or may take any unkinde heats; nor shall put any leather into any hot or warm wooses whatsoever on pain of twenty pounds for everie such offence.

Nor shall any person or persons using or occupying the myserie or facultie of currying, currie any kinde of leather, except it be well and thoroughly tanned; nor shall currie any hyde being not thoroughly dried after his wet season; in which wet season he shall not use any stale, urin, or any other deceitfull or subtil mixture, thing, way or means to corrupt or hurt the same: nor shall currie any leather meet for utter sole leather with any other then good hard tallow, nor with any leffe of that then the leather will receive: nor shall currie any kinde of leather meet for upper leather and inner soles, but with good and sufficient stufte, being fresh and not salt, and thoroughly liquored till it will receive no more; nor shall burn or scald any hyde or leather in the currying, but shall work the same sufficiently in all points and respects on pain of forfeiture for everie such offence or act done contrary to the true meaning of this Order the full value of everie such hyde matted by his evil workmanship or handling, which shall be judged by two, or more sufficient and honest skillfull persons, Curriers or others, on their oath given to them for that end by any Assistant.

And everie town where need is, or shall be, shall choose one or two persons of the most honest and skillfull within their several Townships, and present them unto the County Court, or one Magistrate who shall appoint and swear the said persons, by their discretion to make search and view within the Precincts of their limits as oft as they shall think good and need shall be, who shall have a Mark or Seal prepared by each town for that purpose, and the said Searchers or one of them shall keep the same, and therewith shall seal such leather as they shall finde sufficient in all points and no other.

And if the said Searchers, or any of them shall finde any leather sold, or offered to be sold, brought, or offered to be searched or sealed, which shall be tanned, wrought, converted or used contrary to the true intent and meaning of this Order, it shall be lawful for the said Searchers, or any of them to seize all such leather, and to retain the same in their custodie, untill such time as it be tried by such Tryers, and